

Before the
Federal Communications Commission
Washington, D.C. 20554

2001 SEP 10 P 3: 20

In the Matter of)
)
Request for Review)
of the Decision of)
the Universal Service Administrator by)
)
Trussville Public Library)
Birmingham, Alabama)
)
Federal-State Joint Board on Universal)
Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

IVED

File No. SLD-137839

CC Docket No. 96-45 ✓

CC Docket No. 97-21

ORDER

Adopted: September 4, 2001**Released:** September 6, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division (Division) has under consideration a Request for Review filed by the Trussville Public Library (Trussville), Birmingham, Alabama, seeking review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator).¹ Trussville seeks review of SLD's denial of its request to correct the service provider named in one of its Funding Year 2 funding requests.² This process is referred to as a Service Provider Identification Number (SPIN) correction request. For the reasons set forth below, we grant Trussville's Request for Review and remand this application to SLD for further action.

2. Under the schools and libraries universal support mechanism, eligible schools and libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ The Commission's rules require that the applicant make a bona fide request for services by filing with

¹ Letter from Karen Moody, Trussville Public Library, to Federal Communications Commission, filed December 16, 1999 (Request for Review).

² Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. §54.719(c).

³ 47 C.F.R. §§ 54.502, 54.503.

the Administrator an FCC Form 470,⁴ which is posted to the Administrator's website for all potential competing service providers to review.⁵ After the FCC Form 470 is posted, the applicant must wait at least 28 days before entering an agreement for services and submitting an FCC Form 471, which requests support for eligible services.⁶ SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. Trussville filed its Funding Year 2 FCC Form 471 on July 16, 1999.⁷ On July 19, 1999, SLD issued a Receipt Acknowledgement Letter (RAL) indicating that the Year 2 Form 471 had been received.⁸ It also indicated the terms of the requests as entered by SLD and advised Trussville that "[i]f we (or you) have made errors in Form 471 data entry . . . the Receipt Acknowledgement Letter offers you the opportunity to make corrections."⁹

4. On October 26, 1999, SLD issued a Funding Commitment Decision Letter granting Trussville's five Funding Year 2 requests.¹⁰ In a letter to SLD, dated November 16, 1999, Trussville requested permission to change the SPIN of the provider listed in Funding Request Number (FRN) 210058 of Trussville's FCC Form 471.¹¹ BellSouth Communications, Inc. (BellSouth) was the listed vendor.¹² Trussville informed SLD that the SPIN change was necessary because Trussville had entered BellSouth's SPIN by error, and that GTE South was Trussville's actual vendor.¹³ On December 9, 1999, SLD construed this request as seeking a

⁴ Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (FCC Form 470).

⁵ 47 C.F.R. § 54.504(b); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9078, para. 575 (1997) (*Universal Service Order*), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), *affirmed in part*, *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (affirming *Universal Service First Report and Order* in part and reversing and remanding on unrelated grounds), *cert. denied*, *Celpage, Inc. v. FCC*, 120 S. Ct. 2212 (May 30, 2000), *cert. denied*, *AT&T Corp. v. Cincinnati Bell Tel. Co.*, 120 S. Ct. 2237 (June 5, 2000), *cert. dismissed*, *GTE Service Corp. v. FCC*, 121 S. Ct. 423 (November 2, 2000).

⁶ 47 C.F.R. § 54.504(b), (c); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471).

⁷ FCC Form 471, Trussville Public Library, filed July 16, 1999 (Year 2 Form 471).

⁸ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Karen Moody, Trussville Public Library, dated July 19, 1999 (RAL), at 1-2.

⁹ *Id.* at 3.

¹⁰ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Karen Moody, Trussville Public Library, dated October 26, 1999 (Funding Commitment Decision Letter).

¹¹ Letter from Karen Moody, Trussville Public Library, to Schools and Libraries Division, Universal Service Administrative Company, dated November 16, 1999 (SPIN-Change Request); Year 2 Form 471, at 3.

¹² Year 2 Form 471, *id.*

¹³ SPIN-Change Request at 1.

SPIN change rather than a SPIN correction.¹⁴ SLD denied the request, explaining that it was SLD's policy to grant SPIN change requests in only three circumstances:

1. When the service provider refuses to participate in the E-rate program.
2. When the service provider has gone out of business.
3. When the service provider has breached its contract with the applicant¹⁵

Because Trussville's request did not satisfy any of these conditions, and its Form 471 contained no evidence of a data entry error, its request was denied.¹⁶

4. As noted above, SLD's policy at the time Trussville filed its application was to allow SPIN changes where the originally chosen provider was unwilling or unable to provide service. On March 16, 2000, the Commission issued the *Copan Order*, which modified the current categories of SPIN changes to permit a SPIN change whenever an applicant certifies that: 1) it is allowed under state and local procurement rules, and under the terms of the contract between the applicant and its original service provider, and 2) the applicant has notified its original service provider of its intent to change service providers.¹⁷

5. On review of the record, we find that neither the old nor the new standard for SPIN change requests should have been applied here. Trussville did not seek a SPIN change in its November 16, 1999 letter. It merely sought to correct the erroneous SPIN entered into its application. Therefore, SLD should have analyzed Trussville's request as a SPIN correction request.

6. Reviewing Trussville's Request for Review as a SPIN correction request, we find that the request should be granted. SLD procedures for SPIN corrections provide that if a service provider or SPIN is incorrectly named in a Receipt Acknowledgement Letter or Funding Commitment Decision Letter, whether because of SLD's error or the applicant's, SLD will correct the SPIN upon written request and verification.¹⁸ Here, a written request was made, and we therefore remand this application to SLD to obtain verification and process the SPIN correction in accordance with its procedures.

¹⁴ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Karen Moody, Trussville Public Library, dated December 9, 1999 (Denial of SPIN-Change Request).

¹⁵ *Id.*

¹⁶ *Id.* at 1.

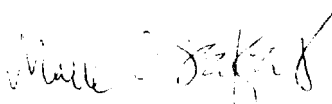
¹⁷ See *Request for Review by Copan Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-26231, CC Dockets No. 96-45 and 97-21, 15 FCC Rcd 5498, ¶ 1 (2000) (*Copan Order*).

¹⁸ See SLD Web Site, <<http://www.sl.universalservice.org/reference/SPINCorrection.asp>>.

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7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§0.91, 0.291, and 54.722(a), that the Request for Review filed by Trussville Public Library, Birmingham, Alabama, on December 14, 1999, IS GRANTED, and this application is remanded to SLD for further action consistent with this order.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau